

AO 120 (Rev. 2/99)

<b>TO: Mail Stop 8</b> <b>Director of the U.S. Patent &amp; Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
---	---

In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been

filed in the U.S. District Court Northern District of California on the following ☐ Patents or ☐ Trademarks:

DOCKET NO. <b>C-10-0032-BZ</b>	DATE FILED <b>January 5, 2010</b>	U.S. DISTRICT COURT Office of the Clerk, 450 Golden Gate Ave., 16 <sup>th</sup> Floor, San Francisco, CA 94102
PLAINTIFF  <b>FINISAR CORPORATION</b>		DEFENDANT  <b>SOURCE PHOTONICS, INC., ET AL.</b>
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2	<i>p 4 - 10 PM Patents</i>	<i>"Pls. See Attached Copy of Complaint"</i>
3		
4		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
2			
3			
4			
5			

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
--------------------

CLERK  Richard W. Wicking	(BY) DEPUTY CLERK  Thelma Nudo	DATE  January 5, 2010
---------------------------------	--------------------------------------	-----------------------------

Copy 1—Upon initiation of action, mail this copy to Commissioner    Copy 3—Upon termination of action, mail this copy to Commissioner  
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner    Copy 4—Case file copy

1 by one or more of the claims of the '775 patent and/or that are made overseas by processes that  
2 are covered by one or more of the claims of the '775 patent, have committed acts of direct  
3 infringement of one or more claims of the '775 patent. These acts constitute violations of 35  
4 U.S.C. § 271.

5 45. Defendants have committed acts of contributory and/or inducement of  
6 infringement of one or more claims of the '775 patent by selling, supporting, and/or encouraging  
7 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are  
8 not staple articles or commodities suitable for non-infringing uses. On information and belief,  
9 Defendants knew or should have known of the '775 patent, at least because Finisar provided  
10 notice of the '775 patent to the Defendants prior to some or all of the sales to third parties of  
11 optoelectronic transceivers covered by one or more of the claims of the '775 patent. These acts  
12 constitute violations of 35 U.S.C. § 271.

13 46. On information and belief, Defendants' infringement of the '775 patent is, has  
14 been, and continues to be willful and deliberate. Despite knowing of the '775 patent, the  
15 Defendants have continued to directly and indirectly infringe one or more claims of the '775  
16 patent, entitling Finisar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and  
17 expenses incurred in prosecuting this action under 35 U.S.C. § 285.

18 47. As a direct and proximate result of Defendants' infringement of the '775 patent,  
19 Finisar has been and continues to be damaged in an amount yet to be determined.

### 20 **THIRD CLAIM FOR RELIEF**

21 (Infringement of U.S. Patent No. 6,957,021)

22 48. Finisar realleges and incorporates by reference the allegations stated in paragraphs  
23 1 through 47 of this Complaint.

24 49. Defendants, by engaging in the unauthorized manufacture (or causing to be  
25 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered  
26 by one or more of the claims of the '021 patent and/or that are made overseas by processes that  
27 are covered by one or more of the claims of the '021 patent, have committed acts of direct  
28 infringement of one or more claims of the '021 patent. These acts constitute violations of 35

1 U.S.C. § 271.

2 50. Defendants have committed acts of contributory and/or inducement of  
3 infringement of one or more claims of the '021 patent by selling, supporting, and/or encouraging  
4 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are  
5 not staple articles or commodities suitable for non-infringing uses. On information and belief,  
6 Defendants knew or should have known of the '021 patent, at least because Finisar provided  
7 notice of the '021 patent to the Defendants prior to some or all of the sales to third parties of  
8 optoelectronic transceivers covered by one or more of the claims of the '021 patent. These acts  
9 constitute violations of 35 U.S.C. § 271.

10 51. On information and belief, Defendants' infringement of the '021 patent is, has  
11 been, and continues to be willful and deliberate. Despite knowing of the '021 patent, the  
12 Defendants have continued to directly and indirectly infringe one or more claims of the '021  
13 patent, entitling Finisar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and  
14 expenses incurred in prosecuting this action under 35 U.S.C. § 285.

15 52. As a direct and proximate result of Defendants' infringement of the '021 patent,  
16 Finisar has been and continues to be damaged in an amount yet to be determined.

17 **FOURTH CLAIM FOR RELIEF**

18 (Infringement of U.S. Patent No. 7,058,310)

19 53. Finisar realleges and incorporates by reference the allegations stated in paragraphs  
20 1 through 52 of this Complaint.

21 54. Defendants, by engaging in the unauthorized manufacture (or causing to be  
22 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered  
23 by one or more of the claims of the '310 patent and/or that are made overseas by processes that  
24 are covered by one or more of the claims of the '310 patent, have committed acts of direct  
25 infringement of one or more claims of the '310 patent. These acts constitute violations of 35  
26 U.S.C. § 271.

27 55. Defendants have committed acts of contributory and/or inducement of  
28 infringement of one or more claims of the '310 patent by selling, supporting, and/or encouraging

1 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are  
2 not staple articles or commodities suitable for non-infringing uses. On information and belief,  
3 Defendants knew or should have known of the '310 patent, at least because Finisar provided  
4 notice of the '310 patent to the Defendants prior to some or all of the sales to third parties of  
5 optoelectronic transceivers covered by one or more of the claims of the '310 patent. These acts  
6 constitute violations of 35 U.S.C. § 271.

7 56. On information and belief, Defendants' infringement of the '310 patent is, has  
8 been, and continues to be willful and deliberate. Despite knowing of the '310 patent, the  
9 Defendants have continued to directly and indirectly infringe one or more claims of the '310  
10 patent, entitling Finisar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and  
11 expenses incurred in prosecuting this action under 35 U.S.C. § 285.

12 57. As a direct and proximate result of Defendants' infringement of the '310 patent,  
13 Finisar has been and continues to be damaged in an amount yet to be determined.

14 **FIFTH CLAIM FOR RELIEF**

15 (Infringement of U.S. Patent No. 6,952,531)

16 58. Finisar realleges and incorporates by reference the allegations stated in paragraphs  
17 1 through 57 of this Complaint.

18 59. Defendants, by engaging in the unauthorized manufacture (or causing to be  
19 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered  
20 by one or more of the claims of the '531 patent and/or that are made overseas by processes that  
21 are covered by one or more of the claims of the '531 patent, have committed acts of direct  
22 infringement of one or more claims of the '531 patent. These acts constitute violations of 35  
23 U.S.C. § 271.

24 60. Defendants have committed acts of contributory and/or inducement of  
25 infringement of one or more claims of the '531 patent by selling, supporting, and/or encouraging  
26 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are  
27 not staple articles or commodities suitable for non-infringing uses. On information and belief,  
28 Defendants knew or should have known of the '531 patent, at least because Finisar provided

1 notice of the '531 patent to the Defendants prior to some or all of the sales to third parties of  
2 optoelectronic transceivers covered by one or more of the claims of the '531 patent. These acts  
3 constitute violations of 35 U.S.C. § 271.

4 61. On information and belief, Defendants' infringement of the '531 patent is, has  
5 been, and continues to be willful and deliberate. Despite knowing of the '531 patent, the  
6 Defendants have continued to directly and indirectly infringe one or more claims of the '531  
7 patent, entitling Finisar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and  
8 expenses incurred in prosecuting this action under 35 U.S.C. § 285.

9 62. As a direct and proximate result of Defendants' infringement of the '531 patent,  
10 Finisar has been and continues to be damaged in an amount yet to be determined.

11 **SIXTH CLAIM FOR RELIEF**

12 (Infringement of U.S. Patent No. 7,162,160)

13 63. Finisar realleges and incorporates by reference the allegations stated in paragraphs  
14 1 through 62 of this Complaint.

15 64. Defendants, by engaging in the unauthorized manufacture (or causing to be  
16 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered  
17 by one or more of the claims of the '160 patent and/or that are made overseas by processes that  
18 are covered by one or more of the claims of the '160 patent, have committed acts of direct  
19 infringement of one or more claims of the '160 patent. These acts constitute violations of 35  
20 U.S.C. § 271.

21 65. Defendants have committed acts of contributory and/or inducement of  
22 infringement of one or more claims of the '160 patent by selling, supporting, and/or encouraging  
23 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are  
24 not staple articles or commodities suitable for non-infringing uses. On information and belief,  
25 Defendants knew or should have known of the '160 patent, at least because Finisar provided  
26 notice of the '160 patent to the Defendants prior to some or all of the sales to third parties of  
27 optoelectronic transceivers covered by one or more of the claims of the '160 patent. These acts  
28 constitute violations of 35 U.S.C. § 271.

1           66.     On information and belief, Defendants' infringement of the '160 patent is, has  
2     been, and continues to be willful and deliberate. Despite knowing of the '160 patent, the  
3     Defendants have continued to directly and indirectly infringe one or more claims of the '160  
4     patent, entitling Finisar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and  
5     expenses incurred in prosecuting this action under 35 U.S.C. § 285.

6           67.     As a direct and proximate result of Defendants' infringement of the '160 patent,  
7     Finisar has been and continues to be damaged in an amount yet to be determined.

8                               **SEVENTH CLAIM FOR RELIEF**

9                               (Infringement of U.S. Patent No. 7,184,668)

10          68.     Finisar realleges and incorporates by reference the allegations stated in paragraphs  
11     1 through 67 of this Complaint.

12          69.     Defendants, by engaging in the unauthorized manufacture (or causing to be  
13     manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered  
14     by one or more of the claims of the '668 patent and/or that are made overseas by processes that  
15     are covered by one or more of the claims of the '668 patent, have committed acts of direct  
16     infringement of one or more claims of the '668 patent. These acts constitute violations of 35  
17     U.S.C. § 271.

18          70.     Defendants have committed acts of contributory and/or inducement of  
19     infringement of one or more claims of the '668 patent by selling, supporting, and/or encouraging  
20     the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are  
21     not staple articles or commodities suitable for non-infringing uses. On information and belief,  
22     Defendants knew or should have known of the '668 patent, at least because Finisar provided  
23     notice of the '668 patent to the Defendants prior to some or all of the sales to third parties of  
24     optoelectronic transceivers covered by one or more of the claims of the '668 patent. These acts  
25     constitute violations of 35 U.S.C. § 271.

26          71.     On information and belief, Defendants' infringement of the '668 patent is, has  
27     been, and continues to be willful and deliberate. Despite knowing of the '668 patent, the  
28     Defendants have continued to directly and indirectly infringe one or more claims of the '668

1 patent, entitling Finisar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and  
2 expenses incurred in prosecuting this action under 35 U.S.C. § 285.

3 72. As a direct and proximate result of Defendants' infringement of the '668 patent,  
4 Finisar has been and continues to be damaged in an amount yet to be determined.

5 **EIGHTH CLAIM FOR RELIEF**

6 (Infringement of U.S. Patent No. 7,050,720)

7 73. Finisar realleges and incorporates by reference the allegations stated in paragraphs  
8 1 through 72 of this Complaint.

9 74. Defendants, by engaging in the unauthorized manufacture (or causing to be  
10 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered  
11 by one or more of the claims of the '720 patent and/or that are made overseas by processes that  
12 are covered by one or more of the claims of the '720 patent, have committed acts of direct  
13 infringement of one or more claims of the '720 patent. These acts constitute violations of 35  
14 U.S.C. § 271.

15 75. Defendants have committed acts of contributory and/or inducement of  
16 infringement of one or more claims of the '720 patent by selling, supporting, and/or encouraging  
17 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are  
18 not staple articles or commodities suitable for non-infringing uses. On information and belief,  
19 Defendants knew or should have known of the '720 patent, at least because Finisar provided  
20 notice of the '720 patent to the Defendants prior to some or all of the sales to third parties of  
21 optoelectronic transceivers covered by one or more of the claims of the '720 patent. These acts  
22 constitute violations of 35 U.S.C. § 271.

23 76. On information and belief, Defendants' infringement of the '720 patent is, has  
24 been, and continues to be willful and deliberate. Despite knowing of the '720 patent, the  
25 Defendants have continued to directly and indirectly infringe one or more claims of the '720  
26 patent, entitling Finisar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and  
27 expenses incurred in prosecuting this action under 35 U.S.C. § 285.

1           77.     As a direct and proximate result of Defendants' infringement of the '720 patent,  
2     Finisar has been and continues to be damaged in an amount yet to be determined.

3                                 **NINTH CLAIM FOR RELIEF**

4                                 (Infringement of U.S. Patent No. RE 36,886)

5           78.     Finisar realleges and incorporates by reference the allegations stated in paragraphs  
6     1 through 77 of this Complaint.

7           79.     Defendants, by engaging in the unauthorized manufacture (or causing to be  
8     manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered  
9     by one or more of the claims of the '886 patent and/or that are made overseas by processes that  
10    are covered by one or more of the claims of the '886 patent, have committed acts of direct  
11    infringement of one or more claims of the '886 patent. These acts constitute violations of 35  
12    U.S.C. § 271.

13          80.     Defendants have committed acts of contributory and/or inducement of  
14    infringement of one or more claims of the '886 patent by selling, supporting, and/or encouraging  
15    the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are  
16    not staple articles or commodities suitable for non-infringing uses. On information and belief,  
17    Defendants knew or should have known of the '886 patent. These acts constitute violations of 35  
18    U.S.C. § 271.

19          81.     Such infringement has injured and damaged Finisar. Unless enjoined by this  
20    Court, Defendants will continue their infringement, irreparably injuring Finisar.

21          82.     As a direct and proximate result of Defendants' infringement of the '886 patent,  
22    Finisar has been and continues to be damaged in an amount yet to be determined.

23                                 **TENTH CLAIM FOR RELIEF**

24                                 (Infringement of U.S. Patent No. RE 40,150)

25          83.     Finisar realleges and incorporates by reference the allegations stated in paragraphs  
26    1 through 82 of this Complaint.

27          84.     Defendants, by engaging in the unauthorized manufacture (or causing to be  
28    manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered



1 by one or more of the claims of the '150 patent and/or that are made overseas by processes that  
2 are covered by one or more of the claims of the '150 patent, have committed acts of direct  
3 infringement of one or more claims of the '150 patent. These acts constitute violations of 35  
4 U.S.C. § 271.

5 85. Defendants have committed acts of contributory and/or inducement of  
6 infringement of one or more claims of the '150 patent by selling, supporting, and/or encouraging  
7 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are  
8 not staple articles or commodities suitable for non-infringing uses. On information and belief,  
9 Defendants knew or should have known of the '150 patent. These acts constitute violations of 35  
10 U.S.C. § 271.

11 86. Such infringement has injured and damaged Finisar. Unless enjoined by this  
12 Court, Defendants will continue their infringement, irreparably injuring Finisar.

13 87. As a direct and proximate result of Defendants' infringement of the '150 patent,  
14 Finisar has been and continues to be damaged in an amount yet to be determined.

15 **ELEVENTH CLAIM FOR RELIEF**

16 (Infringement of U.S. Patent No. RE 40,154)

17 88. Finisar realleges and incorporates by reference the allegations stated in paragraphs  
18 1 through 87 of this Complaint.

19 89. Defendants, by engaging in the unauthorized manufacture (or causing to be  
20 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered  
21 by one or more of the claims of the '154 patent and/or that are made overseas by processes that  
22 are covered by one or more of the claims of the '154 patent, have committed acts of direct  
23 infringement of one or more claims of the '154 patent. These acts constitute violations of 35  
24 U.S.C. § 271.

25 90. Defendants have committed acts of contributory and/or inducement of  
26 infringement of one or more claims of the '154 patent by selling, supporting, and/or encouraging  
27 the infringing use of the Accused Products to third parties. Such optoelectronic transceivers are  
28 not staple articles or commodities suitable for non-infringing uses. On information and belief,

1 Defendants knew or should have known of the '154 patent. These acts constitute violations of 35  
2 U.S.C. § 271.

3 91. Such infringement has injured and damaged Finisar. Unless enjoined by this  
4 Court, Defendants will continue their infringement, irreparably injuring Finisar.

5 92. As a direct and proximate result of Defendants' infringement of the '154 patent,  
6 Finisar has been and continues to be damaged in an amount yet to be determined.

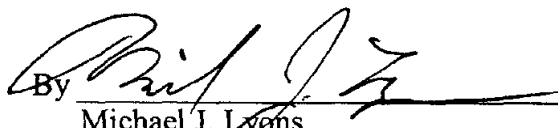
7 **PRAYER FOR RELIEF**

8 WHEREFORE, Finisar prays that this Court enter judgment as follows:

- 9 (A) Adjudicating and declaring that Defendants have infringed, actively induced  
10 infringement of, and/or contributorily infringed the Patents-In-Suit;  
11 (B) Preliminarily and permanently enjoining the Defendants, their officers, agents,  
12 servants, employees, attorneys and all persons in active concert or participation  
13 with them from further infringement of the Patents-in-Suit or, to the extent not so  
14 enjoined, ordering Defendants to pay compulsory ongoing royalties for any  
15 continuing infringement of the Patents-in-Suit;  
16 (C) Ordering that Defendants account, and pay actual damages (but no less than a  
17 reasonable royalty), to Finisar for Defendants' infringement of the Patents-in-Suit;  
18 (D) Declaring that Defendants are willfully infringing one or more of the Patents-in-  
19 Suit and ordering that Defendants pay treble damages to Finisar as provided by 35  
20 U.S.C. § 284;  
21 (E) Ordering that Defendants pay Finisar's costs, expenses, and interest, including  
22 prejudgment interest, as provided for by 35 U.S.C. § 284;  
23 (F) Declaring that this is an exceptional case and awarding Finisar its attorneys' fees  
24 and expenses as provided for by 35 U.S.C. § 285;  
25 (G) Granting Finisar such other and further relief as the Court deems just and  
26 appropriate, or that Finisar may be entitled to as a matter of law or equity.  
27  
28

1 Dated: January 5, 2010

MORGAN, LEWIS & BOCKIUS LLP

2  
3  
4 By   
5 Michael J. Lyons  
6 Attorneys for Plaintiff  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 DANIEL JOHNSON, JR. (State Bar No. 57409)  
MICHAEL J. LYONS (State Bar No. 202284)  
2 HARRY F. DOSCHER (State Bar No. 245969)  
MORGAN, LEWIS & BOCKIUS LLP  
3 2 Palo Alto Square  
3000 El Camino Real, Suite 700  
4 Palo Alto, CA 94306-2122  
Tel: 650.843.4000  
5 Fax: 650.843.4001  
E-mail: [djohnson@morganlewis.com](mailto:djohnson@morganlewis.com)  
6 E-mail: [mlyons@morganlewis.com](mailto:mlyons@morganlewis.com)  
E-mail: [hdoscher@morganlewis.com](mailto:hdoscher@morganlewis.com)

7 Attorneys for Plaintiff  
8 FINISAR CORPORATION

ORIGINAL FILED

JAN - 5 2010

Richard W. Wleking  
Clerk, U.S. District Court  
Northern District of California  
San Jose

ADR

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12 C10 00032 BZ  
Case No.

13 FINISAR CORPORATION,  
14 a Delaware corporation,

15 Plaintiff,

16 v.

17 SOURCE PHOTONICS, INC., a Delaware  
corporation, MRV COMMUNICATIONS,  
a Delaware corporation,  
18 NEOPHOTONICS CORPORATION, a  
Delaware corporation, and OPLINK  
19 COMMUNICATIONS INC., a Delaware  
corporation,

20 Defendants.  
21

COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF

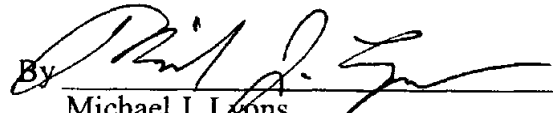
DEMAND FOR JURY TRIAL

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38, Finisar hereby requests a trial by jury.

Dated: January 5, 2010

MORGAN, LEWIS & BOCKIUS LLP

By   
Michael J. Lyons  
Attorneys for Plaintiff

1 Plaintiff FINISAR CORPORATION ("Finisar") alleges as follows:

2 **PARTIES**

3 1. Plaintiff Finisar is a Delaware corporation with its principal place of business at  
4 1389 Moffett Park Drive, Sunnyvale, California 94089-1134. Finisar is qualified and duly  
5 authorized to conduct business in the State of California.

6 2. Defendant Source Photonics, Inc. ("Source Photonics") is a Delaware corporation  
7 doing business in this judicial district, and has a principal place of business at 20550 Nordhoff  
8 Street, Chatsworth, California 91311. Source Photonics has a sales office in the Northern District  
9 of California at 530 Lakeside Drive, Suite 190, Sunnyvale, California 94085. On information and  
10 belief, Source Photonics was formed by the merger of two predecessor companies, LuminentOIC,  
11 Inc. and Fiberxon Inc. On information and belief, Source Photonics is a wholly-owned subsidiary  
12 of MRV.

13 3. Defendant MRV Communications ("MRV") is a Delaware corporation doing  
14 business in this judicial district, and has a principal place of business at 20415 Nordhoff Street,  
15 Chatsworth, California 91311.

16 4. Defendant NeoPhotonics Corporation ("NeoPhotonics") is a Delaware corporation  
17 doing business in this judicial district, and has a principal place of business at 2911 Zanker Road,  
18 San Jose, California 95134.

19 5. Defendant Oplink Communications Inc. ("Oplink") is a Delaware corporation  
20 doing business in this judicial district, and has a principal place of business at 46335 Landing  
21 Parkway, Fremont, California 94538.

22 6. Defendants Source Photonics, MRV, NeoPhotonics, and Oplink are referred to  
23 collectively herein as the "Defendants."

24 **JURISDICTION AND VENUE**

25 7. This is a civil action arising under the patent laws of the United States, 35 U.S.C.  
26 §§ 1 *et seq.* This Court has jurisdiction over the subject matter of this action pursuant to  
27 28 U.S.C. § 1331 and 1338(a).



1 Fiber Optic Transceiver." A true and correct copy of the '531 patent is attached to this Complaint  
2 as Exhibit E.

3 16. Finisar is the sole owner of U.S. Patent No. 7,162,160 (the "'160 patent"), issued  
4 on January 9, 2007, titled "System and Method for Protecting Eye Safety During Operation of a  
5 Fiber Optic Transceiver." A true and correct copy of the '160 patent is attached to this Complaint  
6 as Exhibit F.

7 17. Finisar is the sole owner of U.S. Patent No. 7,184,668 (the "'668 patent"), issued  
8 on February 27, 2007, titled "System and Method for Protecting Eye Safety During Operation of  
9 a Fiber Optic Transceiver." A true and correct copy of the '668 patent is attached to this  
10 Complaint as Exhibit G.

11 18. Finisar is the sole owner of U.S. Patent No. 7,050,720 (the "'720 patent"), issued  
12 on May 23, 2006, titled "Integrated Memory Mapped Controller Circuit for Fiber Optics  
13 Transceiver." A true and correct copy of the '720 patent is attached to this Complaint as Exhibit  
14 H.

15 19. Finisar is the sole owner of U.S. Patent No. RE 36,886 (the "'886 patent"), filed on  
16 January 12, 1995, issued on January 21, 1997, and reissued on October 3, 2000, titled "Fiber  
17 Optic Module." A true and correct copy of the '886 patent is attached to this Complaint as  
18 Exhibit I.

19 20. Finisar is the sole owner of U.S. Patent No. RE 40,150 (the "'150 patent"), filed on  
20 January 12, 1995, issued on January 21, 1997, and reissued on March 11, 2008, titled "Fiber  
21 Optic Module." A true and correct copy of the '150 patent is attached to this Complaint as  
22 Exhibit J.

23 21. Finisar is the sole owner of U.S. Patent No. RE 40,154 (the "'154 patent"), filed on  
24 January 12, 1995, issued on January 21, 1997, and reissued on March 18, 2008, titled "Fiber  
25 Optic Module." A true and correct copy of the '154 patent is attached to this Complaint as  
26 Exhibit K.

27 22. The '769 patent, '775 patent, '021 patent, '310 patent, '531 patent, '160 patent,  
28 '668 patent, '720 patent, '886 patent, '150 patent, and '154 patent are referred to collectively



1 herein as the "Patents-In-Suit." A subset of the Patents-In-Suit including the '769 patent, '775  
2 patent, '021 patent, '310 patent, '531 patent, '160 patent, '668 patent, and '720 patent are referred  
3 to collectively herein as the "Digital Diagnostics Patents." Another subset of the Patents-In-Suit  
4 including the '886 patent, '150 patent, and '154 patent are referred to collectively herein as the  
5 "Optoelectronic Module Patents."

6 **FINISAR'S OPTOELECTRONIC TRANSCEIVER TECHNOLOGY**

7 23. Optoelectronic transceivers are used to provide the electrical-to-optical and  
8 optical-to-electrical conversion required for modern communication over fiber optic cables.  
9 Optoelectronic transceivers are a vital component of the high-speed broadband revolution that has  
10 transformed the way consumers all over the world watch television, surf the internet, and  
11 communicate.

12 24. Finisar is a leading supplier of optoelectronic transceivers and invests substantially  
13 in research and development of new and innovative technologies and products. Finisar has been a  
14 pioneer in the optoelectronics industry, developing, for example, automated transceiver  
15 calibration methods and adding diagnostic intelligence to its transceivers.

16 25. Finisar developed the digital processor controlled laser diode calibration  
17 technology claimed in the '769 patent directed to automation of the process of selecting the drive  
18 current level of the laser diode.

19 26. Finisar engineers later developed an improved digital diagnostics technology  
20 claimed in the other Digital Diagnostics Patents directed to real-time monitoring of transceiver  
21 operating parameters with dramatically improved diagnostic data storage and host access  
22 capabilities, helping to identify abnormal and potentially unsafe operating conditions, simplifying  
23 maintenance, and enhancing reliability.

24 27. Optoelectronic high-speed networks using optoelectronic transceivers with digital  
25 diagnostic monitoring features are now in widespread use, in no small part because of the efforts  
26 of Finisar. Finisar has worked to bring its advanced technology to the entire industry not only by  
27 designing new products, but also by its participation in and commitment to working with industry  
28 committees to create standards and common specifications for transceiver digital diagnostics.

1           28.     One such specification is the SFF-8472 specification, titled "Digital Diagnostic  
2 Monitoring Interface for Optical Transceivers," which was published by the Small Form Factor  
3 Committee. This document specifies a digital diagnostic feature set for Small Form Factor  
4 Pluggable ("SFP") transceivers. It defines an enhanced digital diagnostics monitoring interface  
5 for optical transceivers which allows real-time access to device operating parameters.

6           29.     The SFF-8472 specification was developed at least in part by Finisar employees  
7 and relies upon Finisar's inventions.

8           30.     Industry adoption of the SFF-8472 specification was swift. SFF-8472-compliant  
9 transceivers are now widely available.

10          31.     Similar digital diagnostic capabilities have been incorporated into other widely  
11 used industry multi-source agreement specifications and/or products, including but not limited to  
12 the Enhanced Small Form Factor Pluggable ("SFP+"), 10 Gigabit Small Form Factor Pluggable  
13 ("XFP"), DWDM Pluggable Transceiver ("DWDM"), XENPAK, Broadband Passive Optical  
14 Network ("BPON"), Gigabit Passive Optical Network ("GPON"), and Gigabit Ethernet Passive  
15 Optical Network ("GEAPON") specifications and/or products. For example, the XFP specification  
16 states that the mandatory XFP 2-wire serial interface is "modeled largely after the digital  
17 diagnostics monitoring interface proposed for the SFP and GBIC optical transceivers and defined  
18 in SFF draft document SFF-8472 Rev 9.3 . . . ."

19          32.     All of the major transceiver manufacturers, including the Defendants, make  
20 transceivers that include digital diagnostics. The widespread acceptance and use of Finisar's  
21 digital diagnostics technology by numerous standards bodies and competitors demonstrates the  
22 industry's recognition of the value and importance of Finisar's innovation.

23          33.     Finisar has licensed its Digital Diagnostics Patents to other manufacturers in the  
24 industry.

25          34.     Finisar has also provided notice of its Digital Diagnostics Patents portfolio, and  
26 offered licenses to this portfolio, to others in the industry, including each of the Defendants.  
27 MRV and Source Photonics' predecessor, Luminent, Inc., first received notice of one or more of  
28 the Digital Diagnostics Patents before March 28, 2003. NeoPhotonics first received notice of one

1 or more of the Digital Diagnostics Patents on or before September 26, 2006. Oplink first received  
2 notice of one or more of the Digital Diagnostics Patents on or before December 13, 2005. Each  
3 of the Defendants has refused to license Finisar's Digital Diagnostics Patents.

4 35. Finisar also recognizes the technical contributions of other companies as  
5 demonstrated by its purchase of the Optoelectronic Module Patents from Matsushita Electric  
6 Industrial Co., Ltd.

### 7 **THE ACCUSED PRODUCTS**

8 36. The Accused Products include, but are not limited to, Defendants' optoelectronic  
9 transceivers that (i) are calibrated under processor control pursuant to the claims of the '769  
10 patent, including for example and without limitation, NeoPhotonics' SFF, SFP, 1x9 SC, 2x9 SC,  
11 CWDM, DWDM, XFP, GPON, P2P BiDi, and GEAPON products, Oplink's GBIC, SFF, SFP,  
12 1x9, 2x9, XFP, SFP+, and PON products, Source Photonics' GBIC, SFF, SFP, 1x9, SFP+, XFP,  
13 BPON, GPON, and GEAPON products, and MRV's SFP, Xenpak, XFP, and SFP+ products; (ii)  
14 are compliant with SFF-8472 or otherwise include digital diagnostics, including for example and  
15 without limitation, NeoPhotonics' SFP, CWDM, DWDM, XFP, GPON, P2P BiDi, and GEAPON  
16 products, Oplink's SFP, XFP, and SFP+ products, Source Photonics' SFP, SFP+, XFP, BPON,  
17 GPON, and GEAPON products, and MRV's SFP, Xenpak, XFP, and SFP+ products; and/or (iii)  
18 include the claimed features of the Optoelectronic Module Patents, including for example and  
19 without limitation, NeoPhotonics' SFF, SFP, 1x9 SC, 2x9 SC, CWDM, DWDM, XFP, GPON,  
20 P2P BiDi, and GEAPON products, Oplink's GBIC, SFF, SFP, 1x9, 2x9, XFP, SFP+, and PON  
21 products, Source Photonics' GBIC, SFF, SFP, 1x9, SFP+, XFP, BPON, GPON, and GEAPON  
22 products, and MRV's SFP, XFP, and SFP+ products.

### 23 **FIRST CLAIM FOR RELIEF**

24 (Infringement of U.S. Patent No. 5,019,769)

25 37. Finisar realleges and incorporates by reference the allegations stated in paragraphs  
26 1 through 36 of this Complaint.

27 38. Defendants, by engaging in the unauthorized manufacture (or causing to be  
28 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered

1 by one or more of the claims of the '769 patent and/or that are made overseas by processes that  
2 are covered by one or more of the claims of the '769 patent, have committed acts of direct  
3 infringement of one or more claims of the '769 patent. These acts constitute violations of 35  
4 U.S.C. § 271.

5 39. Defendants have committed acts of contributory and/or inducement of  
6 infringement of one or more claims of the '769 patent by selling, supporting, and/or encouraging  
7 infringing methods of use of the Accused Products to third parties, including but not limited to  
8 customers and end-users. Such optoelectronic transceivers are not staple articles or commodities  
9 suitable for non-infringing uses. On information and belief, Defendants knew or should have  
10 known of the '769 patent, at least because Finisar provided notice of the '769 patent to the  
11 Defendants prior to some or all of the sales to third parties of optoelectronic transceivers covered  
12 by one or more of the claims of the '769 patent. These acts constitute violations of 35 U.S.C. §  
13 271.

14 40. On information and belief, Defendants' infringement of the '769 patent is, has  
15 been, and continues to be willful and deliberate. Despite knowing of the '769 patent, the  
16 Defendants have continued to directly and indirectly infringe one or more claims of the '769  
17 patent, entitling Finisar to increased damages under 35 U.S.C. § 284 and to attorneys' fees and  
18 expenses incurred in prosecuting this action under 35 U.S.C. § 285.

19 41. Such infringement has injured and damaged Finisar. Unless enjoined by this  
20 Court, Defendants will continue their infringement, irreparably injuring Finisar.

21 42. As a direct and proximate result of Defendants' infringement of the '769 patent,  
22 Finisar has been and continues to be damaged in an amount yet to be determined.

23 **SECOND CLAIM FOR RELIEF**

24 (Infringement of U.S. Patent No. 7,079,775)

25 43. Finisar realleges and incorporates by reference the allegations stated in paragraphs  
26 1 through 42 of this Complaint.

27 44. Defendants, by engaging in the unauthorized manufacture (or causing to be  
28 manufactured), importation, use, sale and/or offer for sale of Accused Products that are covered